

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

JOSEPH DANIEL SCOTT,

Defendant.

CR13-156 TSZ

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) Defendant's motion to seal, docket no. 175, is GRANTED, and the report of Dan Knoepfler, MC, License Mental Health Counselor, docket no. 177-1, shall remain under seal.

(2) The Government's motion for leave to file an overlength brief, docket no. 179, is GRANTED, and the Government's 17-page response, docket no. 180, to defendant's motion for compassionate release, is ACCEPTED.

(3) Defendant's motion for compassionate release, docket no. 173, is STRICKEN without prejudice because the Court lacks jurisdiction as a result of defendant's pending appeal. Defendant is advised, however, that the Court is inclined to deny his motion for compassionate release. Defendant's fear of contracting Coronavirus Disease 2019 ("COVID-19") does not constitute an "extraordinary and compelling" reason to reduce his sentence. *See* 18 U.S.C. § 3582(c)(1)(A)(i); *see also Riley v. United States*, 2020 WL 1819838 at *7 (W.D. Wash. Apr. 10, 2020) (Section 3582(c)(1) "does not authorize the court to release an inmate prophylactically on the mere possibility that he may contract a virus"); USSG § 1B1.13 cmt. n.1 (defining an "extraordinary and compelling" medical reason as a terminal illness, serious physical condition, functional or

1 cognitive impairment, or deteriorating health relating to the aging process). Moreover,
2 defendant has not shown that his plan of residing with Odessa Smith, who is 73 years old
3 and lives in an apartment in south Seattle, would render him less likely to be infected
4 with the coronavirus that causes COVID-19, and he has not established the requisite lack
of danger to the safety of others, including Ms. Smith, or the community. See USSG
§ 1B1.13(2); see also 18 U.S.C. § 3582(c)(1)(A) (incorporating by reference the factors
set forth in 18 U.S.C. § 3553(a)).

5 (4) The Clerk is directed to send a copy of this Minute Order to all counsel of
6 record.

Dated this 1st day of June, 2020.

7 William M. McCool

8 Clerk

9 s/Karen Dews

10 Deputy Clerk